

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 15TH JUNE, 2007 / 25TH JYAISHTA, 1929

WP(C).No. 16331 of 2007(T)

PETITIONERS:

1. K.E.BALAKRISHNAN, 19/1555,
VELLYAIKKOTTU HOUSE, CHAIPPURAM, KOZHIKODE.
2. K.E.RAMACHANDRAN, 19/1555,
VELLAYAIKKOTTU HOUSE, CHAIPPURAM,
KOZHIKODE.
3. K.E.VIJAY SANKER, 19/1555,
VELLAYAIKKOTTU HOUSE, CHAIPPURAM, KOZHIKODE.
4. K.E.SURENDRAN, 19/1555, VELLAYAIKKOTTU
HOUSE, CHAIPPURAM, KOZHIKODE.
5. K.E.CHANDRA MOHAN, 19/1555,
VELLAYAIKKOTTU HOUSE, CHAIPPURAM,
KOZHIKODE.
6. K.E.PRAMEELA, 19/1555, VELLAYAIKKOTTU
HOUSE, CHAIPPURAM, KOZHIKODE.

BY ADV. SRI.P.V.JYOTHI PRASAD

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.
2. REVENUE DIVISIONAL OFFICER, KOZHIKODE.
3. TAHSILDAR, TALUK OFFICE, KOZHIKODE.

BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX (WP(C) NO.16331 OF 2007)

PETITIONERS' EXHIBITS:

Ext.P1: Copy of the Partition Deed dtd.12.9.73.

Ext.P2: Copy of the Partition Deed dtd.8.1.1988.

Ext.P3: Copy of the Patta from Kozhikode Land Tribunal
dtd.31.1.77.

Ext.P4: Copy of the notice dtd.19.5.2007 issued by R3.

Ext.P5: Copy of the notice dtd.19.5.2007 issued by R3.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO.16331 OF 2007- T

Dated this the 15th day of June, 2007

J U D G M E N T

The petitioners challenge Exts.P4 and P5 notices by which they have been summarily directed to vacate the property mentioned therein within 24 hours. According to the petitioners, Exts.P4 and P5 were not preceded by any notice as contemplated under the Kerala Land Conservancy Act and Rules nor a hearing. At the time of admission, I had passed an interim order directing that further proceedings pursuant to Exts.P4 and P5 should be only after measurement of the property with notice to the petitioners. Complaining that in spite of the interim order, part of the petitioners' building has been demolished, the petitioners have filed Contempt of Court Case No.865 of 2007 also.

2. I had heard the learned counsel for the petitioners as also the learned Government Pleader.

3. Nothing has been brought to my notice to show that Exts.P4 and P5 have been issued after complying with

the procedure prescribed under the Kerala Land Conservancy Act and Rules. The Act and Rules specifically provide that even when emergency clause is invoked, the order should contain specific reasons for invoking the said clause. Ext.P4 and P5 do not contain any such reasons also. That being so, evidently, Exts.P4 and P5 have been issued without complying with the principles of natural justice and are liable to be quashed on that ground alone. Accordingly, Ext.P4 and P5 are quashed. However, this shall not preclude the respondents from taking further action after complying with the legal formalities such as issue of notice, hearing the petitioner, affording the petitioner an opportunity of being heard and passing a speaking order, considering the contentions of the petitioners.

The writ petition is disposed of as above.

**S. SIRI JAGAN,
Judge**

Mbs/

WP(C) NO. 16331 of 2007

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S.SIRI JAGAN, J

WP(C) NO. 16331 of 2007

:4:

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007

WP(C) NO. 16331 of 2007

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